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Right of peoples to self-determination

The rule of law at the national and international levels

Measures to eliminate international terrorism

Security Council
Sixty-second year

Letter dated 17 May 2007 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

I have the honour to follow up on the previous correspondence addressed to you by the Chargé d'affaires of the Permanent Mission of Cuba and myself dated 11 and 25 April, respectively, issued as General Assembly and Security Council documents under A/61/856-S/2007/205 and A/61/877-S/2007/222.

As you are aware, on 8 May 2007, a United States court issued a ruling that released the notorious international terrorist, Luis Posada Carriles, and dismissed all the charges against him.

Cuba once again holds the United States Government responsible for this ruling, which is further proof of the double standards applied in its self-proclaimed "war on terror". With its decision not to classify this individual as a terrorist, the United States Government has not only violated its own laws but has also clearly violated its undertakings under international conventions and treaties to which it is a party, and under the relevant United Nations General Assembly and Security Council resolutions.

Cuba once again condemns in the strongest terms this latest action, which is an outrage to the Cuban people and to the 73 innocent victims of different nationalities who perished in the heinous act of terrorism perpetrated against the Cubana de Aviación passenger aircraft and their families.

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I should be grateful if you would have this letter and its annex, containing a statement dated 9 May 2007 by the revolutionary Government of Cuba, circulated as a document of the General Assembly, under agenda items 66, 80 and 100.

(*Signed*) Rodrigo **Malmierca Díaz**
Ambassador
Permanent Representative

Annex to the letter dated 17 May 2007 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

Statement by the revolutionary Government of Cuba

9 May 2007

Our people have learned with indignation that on the afternoon of 8 May, Judge Kathleen Cardone ordered the release of the terrorist, Luis Posada Carriles, and dismissed all the charges that the United States Government had brought against him on 11 January for fraud and lying during interviews with the United States Immigration and Customs Enforcement Service in order to obtain his naturalization in that country.

At this time, Cuba reaffirms even more strongly our people's condemnation of this manoeuvre which, as the 19 April 2007 statement by our revolutionary Government noted, "is an outrage to the Cuban people and to the nations that lost 73 of their sons and daughters when a Cubana de Aviación passenger plane was brought down off the coast of Barbados".

In a statement issued on 15 January, our Ministry of Foreign Affairs expressed the hope that "this indictment of the terrorist Posada Carriles for minor immigration offences will not be used as a smokescreen to allow him to go unpunished for the serious crime of terrorism, or as a pretext for continuing to ignore the application for his extradition submitted on 15 June 2005 by the Government of the Bolivarian Republic of Venezuela for his part in the bombing of a Cubana de Aviación aircraft, to which no answer has yet been received".

The series of events from the moment Posada Carriles entered United States territory aboard the boat *Santrina* — promptly denounced by our Commander-in-Chief — clearly shows that all the actions taken by the United States Government from that moment were part of a plan approved by President Bush and designed precisely to create a "smokescreen" that would prevent the prosecution of Luis Posada Carriles as the terrorist that he is.

To prevent Posada's release, it would have sufficed for the United States Government to enforce its own Patriot Act and to acknowledge that the release of the terrorist "will threaten the national security of the United States or the safety of the community or of any person". It would have sufficed for its Immigration and Customs Service to declare that releasing Posada Carriles would constitute a threat to the community and a flight risk, as was clearly stated by our revolutionary Government on 19 April 2007.

The United States Government has all the evidence derived from its long-standing relationship with the terrorist, in addition to the evidence provided by Cuba in 1998 and more recently.

The scheme that has led to this outcome, the protection that this terrorist has enjoyed ever since he entered United States territory, his indictment for minor offences, his coming and going from the custody of one federal agency to another, and finally, the ruling by Judge Cardone on 8 May, demonstrate that Washington's plan was, precisely, to prevent him from speaking about the barbaric acts he

committed against the Cuban and Venezuelan people and against other nations of the Americas while on the payroll of the United States Central Intelligence Agency (CIA), including when the father of the current President of the United States headed that espionage and subversion agency in 1975 and 1976, the period when terrorist acts against Cuba were at their most violent and brazen, as well as when he was Vice-President of the United States in the 1980s, the period in which a dirty war was waged against the Nicaraguan people.

However, perhaps the fact that best illustrates that the plan was under way was the request filed by the United States Government with the court on 27 April seeking the exclusion of any evidence, testimony or other proof linking Posada Carriles to the CIA, and the terrorist's response stating that he had worked for the CIA for more than 25 years, as can be seen from the role he played as a CIA agent in United States Government actions against Nicaragua during the 1980s.

With its decision to not classify Posada Carriles as a terrorist, the United States Government has not only violated its own laws and its alleged commitment to its self-proclaimed "war on terrorism" but has also violated its international obligations.

The United States Government has cynically violated not only United Nations Security Council resolution 1373 (2001), a resolution promoted by itself, but also treaties on terrorism to which it is a signatory, including the International Convention for the Suppression of Terrorist Bombings, which came into force on 23 May 2001, and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, which went into effect on 26 January 1973.

Under these instruments, the United States Government should have tried Posada Carriles for terrorism, or acceded to the request for extradition submitted with all the necessary requirements by the Government of the Bolivarian Republic of Venezuela, and which, almost two years after being submitted, has yet to receive a response.

Whatever one may think of the ruling issued on 8 May by Judge Cardone, who in her 6 April ruling had ordered the terrorist's release on bail even as she acknowledged that he was accused of "being involved in, or associated with some of the most heinous events of the twentieth century ... Some of these acts include the Bay of Pigs invasion, the Iran-Contra scandal, the mid-air explosion of Cubana de Aviación flight 455, the bombs planted in tourist resorts in Havana in 1997, and according to some conspiracy theorists, the assassination of President John F. Kennedy", and that the United States Government bore full responsibility for the release of Posada Carriles and for any consequences thereof.

In fact, in her 8 May ruling, Judge Cardone said that "the realm of this case is not, as some have suggested, terrorism. It is immigration fraud. Terrorism, and the determination of whether or not to classify an individual as a terrorist, lies within the sound discretion of the executive branch", adding that she was not disposed to provide a solution for what she called a "hot potato" for the United States Government.

Likewise, the same ruling by Judge Cardone, in another section, makes clear how absurd it was that, if he had been prosecuted for fraud and for lying in a naturalization process — charges for which he was scheduled to be tried on

11 May — the maximum sentence the terrorist would have received was six to twelve months' imprisonment, which he would not even have served.

The act of the United States Government and outcome of this case are part of the enduring commitment of the current occupant of the White House to the Miami Cuban-American terrorist mafia, and it is suspiciously reminiscent of the release of the terrorist Orlando Bosch when the current President's father, George Bush senior, was President of the United States.

This latest shameful act is of a piece with the actions of a Government that refused to deport Posada Carriles to Cuba or Venezuela because, in its view, he "would be tortured" in our countries; at the same time, it maintains its prison on the portion of occupied Cuban territory in Guantánamo and maintains secret prisons throughout the entire world where the most egregious and inhumane acts are committed.

The Cuban people find it unacceptable that the most notorious and bloodthirsty terrorist to ever exist in this hemisphere is now free, while five Cuban youths remain cruelly and unjustly imprisoned for the sole crime of fighting terrorism.

We wish to recall that our Commander-in-Chief once again warned in his reflections published on 8 May that impunity encourages terrorism, and that "with the unexpected release of the notorious terrorist death once again hovers around our homes".

Time is running out for President Bush. He lost his chance to show even an iota of dignity, sense of shame or ethical behaviour. The clamour of the people against this decision will be unstoppable. The secrets that Posada Carriles knows will come to light sooner or later, and the United States Government will have to answer for its double standards and its lack of political will in seriously combating terrorism.

It remains to be seen now what the White House will do; it still has the option, under its international obligations, to stop Luis Posada Carriles and extradite him to the Bolivarian Republic of Venezuela to answer for his crimes.